

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

ANTONIO DE JESUS MUÑOZ-GONZALEZ,

Plaintiff,

v.

CV No. 19-1213 MV/CG

UNITED STATES OF AMERICA,

Defendant.

ORDER TO CURE DEFICIENCIES

THIS MATTER is before the Court on Mr. Muñoz-Gonzalez's handwritten complaint, which alleges illegal arrest, conviction, and detention by state and federal officers, and seeks declaratory and injunctive relief. (Doc. 1). It appears Mr. Muñoz-Gonzalez is attempting to assert claims under 42 U.S.C. § 1983 or *Bivens v. Six Unknown Agents of Fed. Bureau of Narcotics*, 403 U.S. 388 (1971). A civil rights complaint under 42 U.S.C. § 1983 or *Bivens* is the exclusive vehicle for vindication of substantive rights under the U.S. Constitution. See *Baker v. McCollan*, 443 U.S. 137, 144 n.3 (1979) (claims against state actors must be brought under 42 U.S.C. § 1983).

The Court finds Mr. Muñoz-Gonzalez's complaint is deficient for two reasons. First, his filing is not in proper form or signed by himself, as required by Fed. R. Civ. P. 11(a). Second, Mr. Muñoz-Gonzalez failed to prepay the \$400 filing fee, or alternatively, file an Application to Proceed in District Court Without Prepaying Fees or Costs with a six-month account statement. See 28 U.S.C. §§ 1914 and 1915(a).

Mr. Muñoz-Gonzalez must cure these deficiencies if he wishes to pursue his claims. Mr. Muñoz-Gonzalez must prepay the \$400 filing fee, or alternatively, file an Application to Proceed in District Court Without Prepaying Fees or Costs along with a

six-month account statement. Mr. Muñoz-Gonzalez must also refile an individual complaint on the proper § 1983 form. These deficiencies must be cured within thirty (30) days of entry of this Order. Mr. Muñoz-Gonzalez must include the civil action number (CV 19-1213 MV/CG) on all papers he files in this proceeding. If Mr. Muñoz-Gonzalez fails to cure these deficiencies within thirty (30) days, the Court may dismiss this proceeding without further notice.

IT IS THEREFORE ORDERED that by **April 22, 2021**, Mr. Muñoz-Gonzalez shall: (1) refile his claims on the proper § 1983 form; and (2) either prepay the \$400 filing fee or submit an Application to Proceed in District Court Without Prepaying Fees or Costs along with a certified copy of Plaintiff's inmate account statement for the six-month period immediately preceding this filing.

IT IS FURTHER ORDERED that the Clerk shall mail to Mr. Muñoz-Gonzalez a copy of this Order, two (2) copies of a form § 1983 complaint with instructions, and two (2) copies of an Application to Proceed in District Court Without Prepaying Fees or Costs with instructions.

IT IS SO ORDERED.

A handwritten signature in black ink, appearing to read 'Carmen E. Garza', written over a horizontal line.

THE HONORABLE CARMEN E. GARZA
CHIEF UNITED STATES MAGISTRATE JUDGE